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to the special privilege in this respect extended to Bulgarians for political reasons. (2) Under the French law, not all contracts between alien enemies appear to be void and non-executable, but only such as are of pecuniary profit to the enemy. This requires the court to examine the benefits to be derived from the operation of such a contract. Although in this case the court found that the plaintiff would sustain a loss and Frenchmen derive a profit from the enforcement of this contract, it is not explained why the plaintiff sued at all. *Quaere*, whether the court would examine comparative advantages, and follow the test of preponderating advantage. Under Anglo-American law, the contract would be absolutely void, if made between alien enemies in the Anglo-American sense, regardless of the question of benefits. The consideration of "benefit to the subject" is applied in another connection, namely, in aid of the rule that alien enemies are not relieved from suit in the courts at the hands of subject plaintiffs. *Porter v. Freudenberg* (C. A.) [1915] 1 K. B. 857. *Cf.* also *Ertel Bieber & Co. v. Rio Tinto Co.* (H. of L.) [1918] A. C. 260.

TRUSTS—CONSTRUCTIVE TRUST—MURDER OF TENANT BY ENTIRETY BY CO-TENANT WITHOUT INTENTION TO PROFIT BY HIS CRIME.—A husband and wife held real estate as tenants by the entirety. The husband murdered his wife and then committed suicide. It was shown that he committed the crime without any intention of acquiring title as surviving tenant by the entirety. The executor and heirs of the wife filed a bill in equity to quiet their title against the administrator and heirs of the husband. *Held*, that the plaintiffs were entitled to the relief prayed for. *Van Alstyne v. Tuffy* (1918, N. Y. Trial T.) 9 Rochester-Syracuse Daily Record, 44.

When a prospective heir murders his ancestor, or when a devisee or legatee murders his testator, a problem arises upon which the courts have taken divergent views. By legislation the murderer may, as part of the penalty for his crime, be deprived of the privilege of inheritance. *Estate of Donnelly* (1899) 125 Cal. 417, 58 Pac. 61. In the absence of legislation three views are possible. (1) The murderer may be given title on the ground that the courts are powerless to read into the statute of descent or into the will an exception excluding him. Although the result shocks one's sense of justice, this view is supported by the weight of authority. *Wall v. Pfanschmidt* (1914) 265 Ill. 180, 106 N. E. 785. (2) The opposite view, sustained by a few courts, excludes the murderer from taking title, on the ground that the statute of descent or the will must be read in the light of public policy, which forbids a person to profit by his own crime. *Perry v. Strawbridge* (1908) 209 Mo. 621, 108 S. W. 641. (3) The third view, based on principles of constructive trusts, prevails in New York and a few other jurisdictions. Legal title is recognized as passing to the murderer, but on equitable principles a trust is raised in favor of the heirs of the person murdered. *Ellerson v. Westcott* (1896) 148 N. Y. 149, 42 N. E. 540, explaining *Riggs v. Palmer* (1889) 115 N. Y. 506, 22 N. E. 188; *Cleaver v. Mutual Reserve, etc., Assn.* (C. A.) [1892] 1 Q. B. 147. This view, it is submitted, accomplishes justice without judicial legislation and in accordance with recognized principles. It also enables a *bona fide* purchaser from the murderer to be protected in his title. The principal case is a logical extension of the New York rule. It is worthy of note in that it applies the constructive trust principle to the innocent heirs of the wrongdoer, and this regardless of the motives of the murderer in committing the crime. On the latter point *cf. Hall v. Knight* (C. A.) [1914] P. 1 (a recent English case excluding from succession under a will a devisee convicted of manslaughter in killing the testator). Only one other case dealing with estates by entireties in this connection seems to have been decided. *Beddingfield v. Estill* (1907) 118 Tenn. 39, 100 S. W. 108. There an opposite result was reached on the ground that in an estate by the entirety the surviving

spouse does not take by inheritance but as survivor by virtue of the original grant. But this is no adequate reason for refusing to apply the equitable principles above discussed. See (1897) 36 AM. L. REG. (N. S.) 225, 237.

WATERS AND WATERCOURSES—OBSTRUCTING NATURAL STREAM—EXTRAORDINARY RAIN AS ACT OF GOD.—The defendant enclosed in culverts a stream flowing through its land. As the result of an unprecedented storm the culverts proved insufficient, and overflowing water damaged the plaintiff's property. In its natural condition the channel would have been sufficient to carry off the flood. *Held*, that the defendant was liable, some of the opinions resting on the ground that an extraordinary rainfall in Scotland was not to be deemed an act of God, and one at least on the ground that one who substitutes an artificial watercourse for a natural one is absolutely responsible for damage caused by any flood which would have passed safely through the natural channel. *Corporation of Greenock v. Caledonian Railway Co.* (1917, H. of L.) 117 L. T. Rep. N. S. 483.

Persons who obstruct the natural flow of a stream will in general be liable for damage by overflow caused by the obstruction. *McCoy v. Danley* (1852) 20 Pa. 85, 57 Am. Dec. 680. But it is commonly said that for damage due to such an unwonted flood as may be deemed an act of God, the defendant will be absolved from liability. *Dorman v. Ames* (1867) 12 Minn. 451. When a flood may be so deemed is a question to which it is difficult to find a definite answer in the decisions. Of course one who artificially changes a watercourse must build to accommodate all the water which can be anticipated under the circumstances, having in view the climate, topography, etc. *Sabine v. Johnson* (1874) 35 Wis. 185. Thus when the stream had previously several times overflowed its banks, it was held not enough to accommodate only the water that would flow within the natural bed and banks. *Dunn v. Chicago, etc., Ry. Co.* (1917, Ind. App.) 114 N. E. 888. While each decision in this field must necessarily depend on its own peculiar facts, it would seem that the principal case illustrates a tendency of the courts of Great Britain to be rather less willing than are American courts to find an act of God in given circumstances. *Cf. Kerr v. Earl of Orkney* (1857, Scot. Ct. Sess.) 20 Dunlop, 298; *Dorman v. Ames, supra*; *Helbling v. Allegheny Cemetery Co.* (1902) 201 Pa. 171, 50 Atl. 970. Indeed, Lord Wrenbury's opinion indicates that, in his view at least, no storm, however extraordinary and unforeseeable, would excuse the defendant if the natural channel would have been sufficient to carry off the flood. The case is also interesting for the comments of the Lords Justices upon *Nichols v. Marsland* (1876, C. A.) 2 Ex. Div. 1, in which the act of God exception to the *Rylands v. Fletcher* doctrine was established.

WORKMEN'S COMPENSATION ACT—INJURY ARISING "OUT OF" THE EMPLOYMENT—ASSAULT BY FELLOW-EMPLOYEE.—The claimant's intestate, an employee of the defendant company, died as a result of injuries received in a fight following an assault upon him by a fellow-employee, arising out of a controversy over the possession of a ladle. It was the policy of the defendant company in making iron castings to furnish their employees with only a limited number of ladles so as to avoid too much crowding of the casters around the cupola where the molten metal was drawn out, and so as to prevent them from finishing their day's work too early. *Held*, that the injury did not arise "out of" the employment. *Jacquemin v. Turner & Seymour Mfg. Co.* (1918, Conn.) 103 Atl. 115.

An injury resulting directly from a wilfully tortious or sportive act of a fellow-employee who departs temporarily from the scope of his employment to conduct himself in this manner is not generally held to be within that class of injuries for which the legislatures have provided compensation. (1917) 27 YALE LAW JOURNAL, 142; Kiser, *Workmen's Compensation Acts*, 79; *Federal*